



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

November 9, 2021

By ECF

The Honorable Lewis A. Kaplan
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

**Re: *United States v. Sylvia Ash*,
S1 19 Cr. 780 (LAK)**

Dear Judge Kaplan:

The Government respectfully submits the following in advance of the anticipated *voir dire* of prospective jurors in the above-captioned case. In addition to the Court's standard examination of prospective jurors, the Government respectfully requests that the Court question prospective jurors about issues related to the facts and circumstances of this case. Specifically, the Government respectfully requests that the Court pose the following questions as part of the jury selection process:

1. Will each of you accept that the question of punishment is for the Court alone to decide, and that the possible punishment or the consequences of conviction must not enter into your deliberation as to whether the defendant is guilty?
2. Will each of you accept that sympathy must not enter into your deliberation as to guilt of the defendant, and that only the evidence produced here in Court may be used by you to decide the guilt of the defendant?
3. It is not a particularly pleasant duty to find another individual guilty of committing a crime. Is there any potential juror who feels that even if the evidence established a defendant's guilt beyond a reasonable doubt, he or she might not be able to render a guilty verdict for reasons regardless of the evidence?
4. Do any of you have any religious, philosophical, or other beliefs that would make you unable to render a guilty verdict for reasons regardless of the evidence?
5. As I previously described, during this trial you will hear evidence concerning Municipal Credit Union (also known as "MCU"). Does anything about the fact

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that the charges in this case relate to MCU make it difficult for you to be fair and impartial in this case?

6. Have you or any other member of your household ever been a member of MCU or had an account with MCU? If so, whom? Is there anything about that experience that would make it difficult for you to be fair and impartial in this case?
7. Have you or any other member of your household ever been a member of any other credit union or not-for-profit financial institution? If so, which one? Is there anything about that experience that would make it difficult for you to be fair and impartial in this case?
8. Have you or any other member of your household ever worked for MCU? If so, in what capacity were you or the other members of your household employed? Is there anything about that experience that would make it difficult for you to be fair and impartial in this case?
9. Have you or any other member of your household ever worked for any other credit union or not-for-profit financial institution? If so, in what capacity were you or the other members of your household employed? Is there anything about that experience that would make it difficult for you to be fair and impartial in this case?
10. As I previously described, the Government alleges in this case that the defendant was both a former member of the board of MCU and was a state court judge. Is there anything about the fact that the defendant was a state court judge that would make it difficult for you to be fair and impartial in this case?
11. As I previously described, the Government alleges in this case that the defendant obstructed a federal criminal grand jury investigation. Have you ever served on a criminal grand jury? If so, was it federal or state? Is there anything about that experience that would make it difficult for you to be fair and impartial in this case?
12. As I previously described, the Government alleges in this case that the defendant received two grand jury subpoenas. Have you ever received a subpoena, regardless of whether it was from a grand jury? If so, is there anything about that experience that would make it difficult for you to be fair and impartial in this case?
13. Have you or any other member of your household ever worked for a state court? If so, in what capacity were you or the other members of your household employed? Is there anything about that experience that would make it difficult for you to be fair and impartial in this case?

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14. Certain of the evidence that you are likely to hear in this trial comes from search warrants of electronic devices, including cellphones, and email accounts that were authorized by a federal judge. I am instructing you that all of this evidence was lawfully obtained and may properly be used at this trial. Is there anything about the fact that certain of the evidence was obtained from judicially-authorized search warrants, or that those warrants were for devices or email accounts, that would make it difficult for you to be fair and impartial in this case?
15. Before today, have you read, seen or heard anything about an investigation conducted by the U.S. Attorney's Office for the Southern District of New York regarding Municipal Credit Union, or any other investigative or prosecutorial office, or about the specific charges brought in this case or any involving any other former members of MCU, including its former chief executive officer, Kam Wong? *(If yes, the Government would respectfully request that the Court follow up, at sidebar, if appropriate, with the following):*
 - a. From whom or what did you hear about the investigation or case (e.g., a friend, the newspaper, television)? What, in sum, did you hear/read/see?
 - b. Based on anything that you have read, seen, or heard, have you formed any opinions about the investigation, the case, the charges, or the defendant that might make it difficult for you to be a fair and impartial juror in this case?

Finally, on or before Wednesday, November 24, 2021, the Government will provide a proposed description of the charges and list of potentially relevant witnesses, individuals, entities, and locations that the Government respectfully requests the Court incorporate into its *voir dire* of prospective jurors in order to ensure that none of the prospective jurors have personal familiarity or knowledge with respect to these individuals, entities, or locations that would impact on their ability to render a fair and impartial verdict.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

By: s/ Eli J. Mark
Eli J. Mark
Daniel C. Richenthal
Jonathan E. Rebold
Assistant United States Attorneys
(212) 637-2431/2109/2512
Alona Katz
Special Assistant United States Attorney

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cc: (by ECF)

Carrie Cohen, Esq.
Nathan D. Reilly, Esq.
Janie C. Buckley, Esq.